Introduction

Envisioning the Future of Legal Services

David Freeman Engstrom and Nora Freeman Engstrom

The legal services marketplace sits on the cusp of a revolution. For nearly a century, American lawyers have enjoyed a monopoly over the provision of legal services. Sweeping unauthorized practice of law (UPL) laws have prohibited (and in some cases, criminalized) the practice of law by anyone other than a licensed attorney – and these rules have further mandated that lawyers work as solo practitioners or in lawyer-owned law firms.[1] This one-two punch has meant that only lawyers can provide legal advice and that even lawyers can't practice law in nonlawyer-owned entities.[2]

Yet, that monopoly is increasingly under threat, as more and more stakeholders have begun to question lawyers' stranglehold over the delivery of legal services.[3] Is it really the case that *only* a licensed attorney possesses the expertise necessary to advise an individual on *every* aspect of a case? Does one *really* need a J.D. to help an unrepresented person fill out a form answer to avoid default in a debt collection or eviction proceeding? Should UPL laws prevent legal tech companies from leveraging new technologies, particularly artificial intelligence (AI), to create user-friendly products that help individuals write wills, navigate court processes, and settle claims? Is lawyers' professional independence really so tenuous that capital investment from nonlawyers must be banned? If we relax the lawyers' monopoly, will consumers actually suffer substantial and intolerable harm?

For a growing number of states, the answer to these questions is "no." Arizona and Utah have led the charge, rewriting the rules around UPL and law practice

[1] For how lawyers developed this stranglehold, see generally Nora Freeman Engstrom & James Stone, *Auto Clubs and the Lost Origins of the Access-to-Justice Crisis*, 134 YALE L.J. 123 (Oct. 2024). There are a few exceptions to the latter rule, including if the lawyer is working for the government or a nonprofit or is offering legal services to the entity itself (i.e., an in-house lawyer). *See id.*

[2] *See id.*

[3] Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 FORDHAM L. REV. 1315, 1315 (2020).

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ownership.[4] Other states have revised their regulatory frameworks to permit nonlawyer community justice workers to offer legal advice in at least certain circumstances.[5] Still others, including Colorado and Oregon, have changed their rules to permit licensed legal paraprofessionals to provide legal help.[6] And numerous other states, including Michigan, North Carolina, and Texas, are weighing whether to follow suit.[7] Put simply, after nearly a century of relative stasis, policymakers, legislatures, and lawyers are devoting serious attention to a dizzying array of reforms to liberalize – and, indeed, to rethink and remake – the legal services marketplace.[8]

Such a convulsive change to a billion-dollar legal services industry is hardly uncontroversial, and many are on record opposing these reforms. In 2022, for instance, the American Bar Association's (ABA) House of Delegates passed, by a landslide vote, a resolution discouraging states from permitting lawyers to share fees with nonlawyers.[9] Such fee-sharing, the ABA intoned, is "inconsistent with the core values of the legal profession."[10] The same year, the California legislature shuttered a working group that had been tasked with examining ways to liberalize regulations and expand categories of legal providers in the Golden State.[11] In Florida, a proposal to open law firm ownership to nonlawyers was quietly killed by the state's highest court.[12] And, leading lawyers have joined the chorus, offering unsparing criticism of

[4] *See generally* David Freeman Engstrom et al., Legal Innovation after Reform: Evidence from Regulatory Change (2022) (discussing recent regulatory reforms, including in Utah and Arizona).

[5] Stacy Rupprecht & Jane Balser Cayley, *The Diverse Landscape of Community-Based Justice Workers*, IAALS (Feb. 22, 2024) (explaining that five states, including Alaska, have established community justice worker programs).

[6] Maddie Hosack, *Colorado Supreme Court Approves Licensed Legal Paraprofessionals*, IAALS (Apr. 5, 2023) (listing five states that, as of April 2023, had created such schemes); *Colorado Supreme Court Approves Creation of Legal Paraprofessional License*, Colo. Jud. Branch (Mar. 27, 2023), https://www.mncourts.gov/About-The-Courts/NewsAndAnnouncements/ItemDetail.aspx?id=2332. In addition, Minnesota's Supreme Court is currently accepting public comments on whether to extend its legal paraprofessional pilot program. *See Supreme Court Accepting Public Comment on Legal Paraprofessional Pilot Project – Comment Period Deadline Extended*, Minn. Jud. Branch (Feb. 21, 2024), https://www.mncourts.gov/About-The-Courts/NewsAndAnnouncements/ItemDetail.aspx?id=2332.

[7] *See* Engstrom & Stone, *supra* note 1.

[8] For a recent catalog of reforms, see *id*.

[9] *See* Sam Skolnik, *ABA Sides against Opening Law Firms up to New Competition*, Bloomberg L. (Aug. 9, 2022).

[10] Am. Bar Ass'n, Resolution 402 (Aug. 2022).

[11] *See* Joyce E. Cutler, *California Restrains State Bar from Expanding Nonlawyer Practice*, Bloomberg L. (Sept. 19, 2022); David Freeman Engstrom & Nora Freeman Engstrom, *Why Do Blue States Keep Prioritizing Lawyers over Low-Income Americans?*, Slate (Oct. 17, 2022).

[12] *See* Letter of President Michael G. Tanner to The Honorable Charles T. Canady, Florida bar (Dec. 29, 2021), https://www.floridabar.org/news/publications/publications002/special-committee-to-improve-the-delivery-of-legal-services/#reports [hereinafter Tanner Letter]; *see also* Lyle Moran, *Florida Supreme Court Rejects Bar Committee's Reform Proposals, Asks for Alternatives*, Am. Bar Ass'n J. (Mar. 22, 2022).

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reforms under consideration in additional states.[13] There is, in short, little attorney appetite to change a regime that has given those with a J.D. nearly a century of unfettered control.

At the same time, *some* form of change now seems inevitable, given the collision of two powerful and cross-cutting forces. First is mounting public concern about what many rightly see as an accessibility crisis in the American civil justice system. Second is the rise of new tech-powered legal service delivery models that seem capable of ameliorating that crisis.

Start with the escalating access-to-justice crisis in the United States. After decades of neglect, access to justice has roared onto legal and political radars, fueled by a growing realization, first among lawyers but increasingly among the wider American public, that the civil justice system is nearing a breaking point. The best current evidence suggests that "as many as half of American households are experiencing at least one significant civil justice situation at any given time."[14] And many of these situations are serious, including eviction, wage theft, uninhabitable housing, domestic violence, harassment, or the unjustified denial of an insurance claim or public benefit.[15]

Yet, the vast majority of these issues go unaddressed. Most folks, even those with serious legal problems, "lump it."[16] They never so much as *try* to vindicate their rights.[17] Even when individuals are on the receiving end of litigation and are sued, rather than suing, many lawsuits end in a default judgment because the individual never appears.[18] Just as worrying, on those occasions when individuals defy the odds and actually make their way into court, they typically do so alone. In approximately

[13] *See, for example*, Stephen P. Younger, *The Pitfalls and False Promises of Nonlawyer Ownership of Law Firms*, 132 YALE L.J. FORUM 259 (2022) (criticizing reforms that would permit nonlawyer ownership of law firms); Lynn LaRowe, *Texas Non-Atty Ownership Plan Fizzles as Justice Gap Fix*, LAW360 PULSE (Jan. 1, 2024) (discussing various opponents of such reforms in Texas); Heather Linn Rosing, *California Lawyers Association ATILS Comment*, CAL. LAWS.' ASS'N (Sept. 25, 2019), https://calawyers.org/california-lawyers-association/california-lawyers-association-atils-comment/ (opposing various regulatory reforms in California).

[14] Rebecca L. Sandefur, *What We Know and Need to Know about the Legal Needs of the Public*, 67 S.C. L. REV. 443, 445 (2016); *see also* LEGAL SERVS. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 18 (2022) ("[N]early three quarters (74 percent) of low-income households have experienced at least one civil legal problem in the past year.") [hereinafter LSC REPORT].

[15] *See* Rebecca L. Sandefur & Emily Denne, *Access to Justice and Legal Services Regulatory Reform*, 18 ANN. REV. OF L. & SOC. SCI. 27, 28 (2022); *see also* LSC REPORT, *supra* note 14, at 32–38 (cataloging common problems individuals confront).

[16] Nora Freeman Engstrom, *She Stood Up*, 74 STAN. L. REV. ONLINE 1, 8 (2021); *see* LSC REPORT, *supra* note 14, at 7 ("Low-income Americans do not get any or enough help for 92 percent of their substantial civil legal problems.").

[17] Sandefur, *supra* note 14, at 445.

[18] *See* Nora Freeman Engstrom & David Freeman Engstrom, *The Making of the A2J Crisis*, 75 STAN. L. REV. ONLINE 146, 149 (2024) (explaining that "in many jurisdictions and in certain litigation areas – again, most prominently debt collection actions – the *majority* of lawsuits *never draw a responsive pleading* and, as a result, end in default judgment").

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three-quarters of the 20 million civil cases filed in state courts each year, at least one side proceeds pro se.[19]

Further, although it's long been reassuringly said that these pro se numbers reflect individual choice – individual litigants' stubborn distrust of lawyers or their plucky desire to go it alone – the evidence strongly suggests otherwise. When asked why they are proceeding pro se, individuals tend to indicate that they don't *want* to take on the baffling and byzantine civil litigation system entirely without assistance.[20] They are consigned to do so. Pro se litigants don't prefer to litigate pro se. They are, rather, condemned to that fate.

Why? The simple answer is there are simply too few attorneys to meet the needs of low- and moderate-income Americans. The Legal Services Corporation (LSC), the country's largest provider of legal aid funding, reports that LSC-funded organizations turn away half of all requests for legal assistance "due to limited resources."[21] In all, that means that LSC-funded organizations "are unable to provide any or enough legal help for an estimated 1.4 million civil legal problems … that are brought to their doors" each year.[22]

Also clear: Simple and uncontroversial fixes to address that gap, such as a little more pro bono here or a redoubling of our investment in legal aid there, won't cut it. Attorneys in the United States would need to increase their pro bono work from an annual average of thirty hours each to over *nine hundred hours each* to "provide some measure of assistance to all households with legal needs."[23] Likewise, even a tripling or quadrupling of legal aid funding would barely be a drop in the bucket. If, as Deborah Rhode astutely observed two decades ago, "[w]hat Americans want is more justice, not more lawyering," it is incumbent on us to rethink how the current professional monopoly impacts the supply of necessary legal services.[24]

The other tectonic force fueling skepticism about the lawyers' monopoly is the coming of new technologies, particularly AI. AI has already disrupted numerous

[19] *See* Nat'l Ctr. for State Cts., The Landscape of Civil Litigation in State Courts, at iv (2015) (explaining that, in three-quarters of cases, at least one side proceeds pro se); Family Justice Initiative: The Landscape of Domestic Relations Cases in State Court, at ii (2018) (reporting that, in domestic relations cases, "the majority of cases (72 percent) involved at least one self-represented party") [hereinafter, Landscape of Domestic Relations]. Federal court statistics are only marginally better. *See* Judith Resnik, *Mature Aggregation and Angst: Reframing Complex Litigation by Echoing Francis McGovern's Early Insights into Remedial Innovation*, 84 Law & Contemp. Probs. 231, 238–39 (2021) ("Of some 260,000 civil cases filed annually [in the federal courts], about twenty-five percent are brought by people without lawyers, and more than half the cases before the federal appellate courts are brought by self-represented parties.").

[20] Engstrom & Engstrom, *supra* note 18, at 156–57.

[21] LSC Report, *supra* note 14, at 9.

[22] *Id.*

[23] Gillian K. Hadfield, *Innovating to Improve Access: Changing the Way Courts Regulate Legal Markets*, 143 Daedalus 83, 87 (2014).

[24] Deborah L. Rhode, Access to Justice 81 (2004).

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aspects of American society, and the legal industry may well be next.[25] As some have commented, "the automation of the law is nigh."[26] Increasingly flush with venture capital funding, a growing "legal tech" industry is working to create new tools that will augment and even outright automate the delivery of legal services at all levels of the system.[27] Leveraging potent new forms of generative AI, legal tech tools can now perform a growing array of higher-order legal cognitions, supercharging how lawyers serve their clients. Generative AI is also sweeping into "direct to consumer" tools that serve litigants directly and, in important ways, double for the services that lawyers or other legal services providers might offer. Indeed, the advent of generative AI holds the promise that the millions who currently go without any legal help at all can enter plain language descriptions of a legal problem into a machine and receive back actionable information and advice. Courts, too, are fast-digitizing a suite of self-help mechanisms, from court "portals" to form-filing and filing tools they pioneered beginning in the 1990s as the pro se crisis initially took root.

The rapid emergence of these tech tools presents a challenge – even an existential threat – to the current regulatory regime. Should technologies that generate legal advice be reserved for use solely by attorneys, or can they be safely put directly into consumers' hands? Should courts themselves create generative AI-driven tools to assist self-represented litigants? In what circumstances does a legal tech tool, including a court-hosted one, run afoul of UPL laws?[28] And will lawyers be the ones to decide these questions, or will the regulatory monopoly shatter in the face of this highly disruptive force?

Important in their own right, these sorts of questions take on both moral and practical urgency, given the justice gap laid out above. If millions of Americans with serious legal needs are indeed condemned to navigate the civil justice system alone, can legal tech at least light the way? Or will these outmatched individuals be deprived of tech-powered help, too?

This collision – the access-to-justice crisis hitting up against the growing presence of legal tech, all on top of a creaky and restrictive regulatory regime built in an earlier, analog era – leaves the lawyers' monopoly on increasingly thin ice. The cries of those resisting reform are drowned out by the realization that *some* change is necessary and also inevitable. And if *change is coming*, one must then contemplate what that change will look like and how it can responsibly be ushered into existence.

[25] *See generally* David Freeman Engstrom, ed., Legal Tech and the Future of Civil Justice (2023).

[26] Michael Simon et al., *Lola v. Skadden and the Automation of the Legal Profession*, 20 Yale J.L. & Tech. 234, 257 (2018).

[27] Megan Ma et al., Generative AI Legal Landscape 2024, at 3 (2024) (noting a 30 percent rise in venture funding since 2021).

[28] *See, for example*, *id.* at 8 (explaining that UPL laws present an obstacle to putting legal tech products in the hands of consumers).

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This volume aims to provide a sophisticated but accessible survey of this fast-changing landscape in order to inform, enrich, and expand mounting debate about the future of legal services regulation and access to justice. It identifies and diagnoses the effects of the lawyers' monopoly, proposes conceptual frameworks and perspectives as starting points for reform, and critically, proposes how best to shape and steer the coming revolution. By reframing the issues, infusing empirically minded expertise, and tapping a diverse array of stakeholders and disciplinary perspectives, the volume contributes to a growing and vital debate about what works, what doesn't, and what lies ahead in the next chapter of the civil justice system.

The chapters in this volume are grouped into four parts, each organized around a central, organizing question. Part I asks how best to frame the many issues at the intersection of legal services regulation and access to justice. From what angle should stakeholders analyze and evaluate the role of the lawyer and other legal service providers in a system that is not functioning as it should? Are current access woes best thought of as a regulatory problem, an economics problem, a political problem, or something else entirely, and what follows from each framing?

Part II focuses on the existing market for legal services and asks what might be learned from some of the reform efforts already undertaken. From initiatives by one of the nation's largest court systems to help self-represented litigants, to the role of grassroots organizing and data collection in support of "right to counsel" reforms, to the successes and failures of purveyors of direct-to-consumer (DTC) legal tech products, Part II offers reports from the field. Along the way, it tours some of the steps already taken to modernize the legal services market, and it calls on the profession to see the promise – and sometimes, the peril – of these multifaceted efforts.

Part III adopts a comparative lens. It interrogates the lessons that can be learned both from other jurisdictions that have grappled with a changing legal services market and also from law's sister profession – medicine – which has undergone substantial, and in many ways similar, reform.

Part IV closes the volume with a longer-term vantage, exploring new frontiers for thinking about the future of legal services regulation. Part of that task is to identify and explore key change vectors – like challenges to UPL laws on First Amendment grounds – that have begun to exert pressure on the current system. A second vital task is to better understand what more ambitious changes to the structure of American legal services regulation might look like, were there political will to entertain them. This culminating segment aims to help lawyers, judges, policymakers, scholars, and activists think about the benefits, risks, and tradeoffs of radical change – and also the dire consequences of continued inaction.

Throughout, this volume does not purport to provide any definitive "answer" to any single question posed above. Instead, it infuses the dialogue surrounding each with dynamic perspectives, grounded expertise, and passionate appeals to bring the legal services industry into a more effective and accessible era.

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I.1 FRAMING THE ISSUE: CONCEPTUALIZING THE CHALLENGE OF ACCESS TO JUSTICE AND LEGAL SERVICES REGULATION

In order to bring structure and realism to any discussion of possible reform, it is useful to step back to consider how best to approach the weighty problems facing the legal profession. Part I presents a mix of conceptual perspectives that can serve to organize thinking about the current legal services market.

For decades, stakeholders viewed the market for legal services through a lawyer-centric lens – one that focused almost exclusively on lawyers as a panacea to society's legal woes. Through this lens, access-to-justice reformers focused on closing the justice gap by increasing attorney supply. For them, problems could be solved by upping lawyers' commitment to pro bono service, providing more funding to legal aid organizations, and cementing "civil *Gideon*," that is, establishing a right to counsel in civil matters akin to the guarantee of counsel to criminal defendants.[29]

But this framework has proved too simplistic. A steady increase in the number of available attorneys has not led to commensurate decreases in the need for legal services – far from it.[30] Nor do myopic, lawyer-centric perspectives permit the flexible thinking required to situate the legal profession in the tech-powered twenty-first century. It has become clear that *more* lawyers doing *more* work will not close the justice gap. Instead, stakeholders must embrace a more holistic and nuanced conception – a gaze that expands beyond the simple supply of lawyers and appreciates a market made up of a vast array of complex, interacting variables, which, in turn, are bound up in broad societal power structures and imbalances.

The four chapters in Part I embrace that reality, setting forth diverse analytical and conceptual frameworks to guide the volume's subsequent inquiry into a changing market for legal services.

First up is "Justice Futures: Access to Justice and the Future of Justice Work." In it, Professor Rebecca L. Sandefur, the dean of the access-to-justice field, and Matthew Burnett, a senior program officer at the American Bar Foundation, advance a framework that does away with "lawyer-centric" modes of thinking and instead centers debate on the individuals in need of legal advice. Empirical evidence, they point out, demonstrates that a vast number of individuals experience legal needs – and those needs are shaped by a range of factors, including gender, race, geography, and willingness to invoke or engage with law. But previous reforms, they point out, have largely ignored these realities, instead offering blanket, one-size-fits-all, lawyer-driven solutions – all destined to fail. A new generation of reform, they

[29] Hadfield, *supra* note 23, at 87.

[30] For the growth in the profession (some 30 percent since 2000), see *ABA Profile of the Legal Profession 2023 – Lawyer Demographics*, Am. Bar. Ass'n (2023), https://www.abalegalprofile.com/demographics.html (last accessed Apr. 5, 2024). For the fact that growth hasn't translated into a reduction in the justice gap, see *supra* notes 14–19 and accompanying text.

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suggest, must be attuned to this history and complexity. And, just as critically, it must expand categories of legal service providers to include actors that can best respond to the particular identities, priorities, and preferences of individuals seeking assistance – including paraprofessionals, community justice workers, and Tribal lay advocates.

Professor Brian Libgober, a political scientist at Northwestern, takes a different tack, approaching the market for legal services from a political economy perspective. In "Race and the Political Economy of Civil Justice," he zooms in on the racial aspects of legal service regulation, dissecting the significant racial disparities in the civil justice system through a market-based lens. In so doing, Professor Libgober presents a strikingly original argument connecting bias in legal services markets – and resulting gaps in attorney availability – to restrictive regulations.

The chapter builds on Libgober's past work which has shown that racial bias pervades legal markets, making it harder for people of color to retain counsel. For instance, one of Libgober's past studies demonstrated that "those with [B]lack-sounding names receive only half the callbacks of those with white-sounding names in response to requests for legal representation."[31] Expanding on that insight, here, Libgober explains that lawyers are even *more* likely to discriminate in geographic markets where there is an inadequate supply of attorneys to meet demand. Lawyers can afford to be "choosy," as Libgober puts it, in a market where demand badly outstrips supply, and when lawyers are "choosy," persons of color lose out. Restrictive rules that artificially constrain supply, it follows, may exacerbate racial inequities – and may further skew the allocation of legal assistance. Libgober's distinctive political economy lens thus helps reveal how interventions designed to open up the legal services market to new types of providers can also make the civil justice system more inclusive.

In "The Hypocrisy of Attorney Licensing," Professor Rebecca Haw Allensworth, an antitrust expert from Vanderbilt, offers a very different regulatory perspective – and takes us deep into the deficiencies of the current state-level attorney disciplinary framework. Rather than focusing on how the legal profession *over*regulates the provision of legal services, she explores how the profession concomitantly engages in pernicious *under*regulation by too lightly disciplining attorneys who engage in misconduct. The system, in other words, is simultaneously too strong and too slack – in the latter case, because of a near-phobic resistance to permanent disbarment. In most states, permanent disbarment is a misnomer; even "permanently" disbarred attorneys can petition to return to practice.[32] Worse, permanent (but not truly permanent) disbarment is rare. Only some 500 lawyers, total, were disbarred nationwide in 2021, out of 1.4 million licensed practitioners.[33] As a result, the system – unwilling to impose the "ultimate penalty" – lets even bad apples keep practicing.

[31] Brian Libgober, *Getting a Lawyer While Black: A Field Experiment*, 24 Lewis & Clark Rev. 53, 53, 76 (2020).

[32] Ashley Merryman, *What Does It Take for an Attorney to Be Disbarred?*, U.S. News (Jan. 19, 2024).

[33] *Id.*

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But, in a perverse twist, the system tends to relegate these bad apples to the outskirts of the profession, particularly into solo or court-appointed practice. There, on the profession's fringes, these bad apples are subject to little peer oversight and also are more likely to serve vulnerable individuals from underserved communities (which is to say, precisely those individuals who need protection most). This de facto system of retention-then-relegation, Allensworth convincingly concludes, is indefensible. It militates not only in favor of an overhaul of the disciplinary system – to beef it up – but also in favor of a relaxation of those rules that lock even high-quality nonlawyers out. This one-two adjustment, Allensworth explains, will facilitate greater access to quality representation.

Finally, W. Bradley Wendel of Cornell Law School – a renowned legal ethicist – closes out Part I with "The Case for Traditionalists." In it, he presents a framework centered on the need to uphold the norms and ideals of the legal profession. While acknowledging that reforms are necessary to bring the legal services market into a new era, such reforms, he insists, must be mindful of the "public side" of lawyer's duties: the duties of judgment and professionalism that lawyers owe not only their clients but also courts, the public, and their fellow attorneys. Using hypotheticals, Wendel illustrates how nonlawyer providers may struggle to fulfill the "public side" of lawyering, highlighting the need for reformers to account for the vital public-facing functions that lawyers – and, ideally, nonlawyer service providers that are welcomed into the system – can and must serve.

Three key conclusions cut through the diverse perspectives, frameworks, and approaches gathered in Part I. First, the chapters collectively reaffirm that the market for legal services is not only shaped by the lawyers who, until now, have dominated. The market is also shaped by the needs and identities of those who *require legal assistance*. As a corollary, class, power, race, gender, education, ethnicity, and other features of an individual's identity powerfully shape how an individual responds to legal problems and utilizes (or fails to utilize) legal services. For too long, the legal profession has mostly ignored the above realities. That inattention must end.

The second conclusion flows from the first: Once the focus shifts from the supply side to the demand side – from lawyers to the individuals in need of legal services – there is a corresponding need to expand the frame. A healthy, robust, and responsive legal services market can't be one-size-fits-all. Depending on the person or problem, legal paraprofessionals, community justice workers, or Tribal lay advocates may be far better suited to offer assistance and support.

Third, an expanded conception of legal services requires a corresponding expansion of the experts on whom the legal profession relies. The profession cannot continue to turn only to attorneys for their perspectives and knowledge but must instead embrace political economists, consultants, union organizers, and more. For much of the previous century, lawyers effectively boxed these actors out of the conversation. Part I's multifaceted contributions make clear that a wider mix of voices will be necessary to gain a dynamic, nuanced understanding of legal needs in

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this country, and accordingly, to design the interventions best equipped to respond to those needs.

I.2 LESSONS FROM THE FIELD: ON-THE-GROUND EFFORTS TO EFFECT POSITIVE CHANGE

Numerous reforms to the legal services market are already off and running. Arizona and Utah lead the pack, as they have enacted revolutionary reforms that open the legal profession to outside investment and permit nonlawyer provision of legal services.[34] But, while Arizona and Utah are blazing a trail, their reforms should not obscure other efforts to narrow the justice gap. For instance, courts across the country have implemented a wide range of self-help services to assist self-represented litigants.[35] Other reforms are geographically targeted: The Alaska Legal Services Corporation (ALSC), for example, has launched a first-of-its-kind community justice worker program, obtaining a regulatory waiver that permits ALSC to supervise and train local community members to provide legal advice to their fellow citizens in rural Alaska.[36] And still other efforts come from a growing cast of for-profit and nonprofit legal tech providers. Upsolve, to cite just one example, is a nonprofit dedicated to developing online tools to permit individuals to navigate the Chapter 7 bankruptcy process.[37]

This part canvasses a few of these efforts – and surfaces various lessons to help guide further experimentation.

First up, The Honorable Carolyn Kuhl, former Presiding Judge of the Los Angeles Superior Court (LASC) and a leading voice in the regulation of the legal profession, describes and critiques previous access-to-justice-minded reforms implemented in the nation's largest trial court. "What Can Legal Services Reformers Learn from Court Efforts to Assist Self-Represented Litigants?" first points out the growing number of unrepresented individuals bringing or defending cases in state courts – an onslaught that prompted numerous state courts, including LASC, to undertake measures to assist these individuals, while still maintaining their role as a neutral adjudicator. She catalogs and critically evaluates LASC's wide array of interventions aimed at assisting these pro se litigants, including educational services offered to self-represented family law litigants; online dispute resolution (ODR) platforms; and "Gina the Traffic Avatar," a computer-based chatbot that helps users gauge their options for paying or contesting traffic tickets. Her guidance offers

[34] *See* Engstrom et al., *supra* note 4, and accompanying discussion.

[35] Nat'l Ctr. for State Cts. & Mass. Appleseed Ctr. for L. & Just., Court Based Self-Help Centers 7 (2023) (reporting that courts in twenty-five of thirty-two states surveyed had implemented some form of self-help kiosk).

[36] Community Justice Worker Program, Alaska L. Services Corp., https://www.alsc-law.org/community-justice-worker-program/ (last accessed May 5, 2024).

[37] *How Upsolve Works*, Upsolve, https://upsolve.org/how-we-work/ (last accessed May 5, 2024).

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critical insights for other court systems hoping to integrate similar reforms, and more broadly, infuses the ongoing dialogue regarding the future of the legal services market with real-world experience and candor.

Next, in "Civil [Justice] Engineering," Neil Steinkamp and Samantha DiDomenico, both of the global advisory firm Stout Risius Ross, LLC, offer lessons in reform efforts gleaned from their combined decades of experience directly working as strategic advisors on issues of social change. They focus on their efforts enacting limited "civil *Gideon*" in a number of jurisdictions – efforts that have minted a civil right to counsel in eviction proceedings akin to what criminal defendants have long enjoyed under the Sixth Amendment. Steinkamp and DiDomenico offer a step-by-step roadmap for building an empirically rigorous but politically potent movement toward regulatory reform. The result is a unique how-to guide for engaging courts and community stakeholders in generating the quantitative and qualitative data that drives reform efforts. Just as important, their chapter is a bracing reminder of the ways in which the current system remains stuck in a kind of stasis – and has historically been intractable to real and rigorous empiricism that might inform, and also drive, reform efforts.

Professor Jamila Michener of Cornell's Department of Government next takes us out of the courthouse, urging reformers to focus their efforts on correcting the societal power imbalances that lead to legal disputes in the first place. In "Beyond Access to Justice: Power, Organizing, and Civil Legal Inequality," she shares stories of community members and political organizers who have used tenants unions to attack legal problems at their root. Collective action, she says, can ameliorate the power structures that *create* legal problems, like predatory landlords, exploitative employers, and the insufficient availability of affordable housing. Tenants unions mobilize those so often harmed by such structural injustices, using collective power to improve harmful building conditions and expel notorious building management companies, thereby avoiding legal disputes and decreasing the demand for legal services in the first place. Professor Michener authoritatively argues that "supply-side" reforms (e.g., increasing access to attorneys and funding for legal aid organizations) must be complemented with demand-side interventions, such as legislation to promote and empower the political organizing necessary to address legal problems at their source.

Finally, Professor David Freeman Engstrom of Stanford and Jess X. Lu, a Stanford Law graduate and former management consultant, offer a different type of report from the field, and a less optimistic one, in their examination of how legal tech companies are navigating restrictive rules in their efforts to build sustainable business models that can also narrow the justice gap. In "The Puzzle of Anemic 'Legal Tech' and the Future of Legal Services," Engstrom and Lu question why rapid advances in technology, and especially AI, have not resulted in a robust DTC legal tech market. While restrictive UPL laws and antiquated court-run technology systems may provide a partial answer, Engstrom and Lu theorize that the better explanation is the challenging market economics of providing low- and

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middle-income Americans with tech-based services and the "lifetime value trap": The low revenue potential of a customer base that needs services only episodically and often only once and, in any event, has limited ability to pay for additional services or products. They conclude that, in order to build sustainable business models, DTC legal tech may need passive income streams and enterprise-level customers. Their analysis sheds new light on the role technology may play in the legal services market of the future, and it may even call into question reforms focused on liberalizing legal practice rules. Indeed, if those reforms will not yield a robust, competitive marketplace of DTC legal tech providers, then perhaps reform advocates should allocate scarce real and political capital to other potential solutions.

The chapters in Part II cover only a sliver of the many impactful efforts that have shaped the decades-long journey to improve the legal services market. But these examples hold broad-based lessons for those seeking to push the legal services market into its next phase. LASC's numerous efforts to improve services for pro se litigants – some of which were more successful than others – remind reformers to critically analyze interventions as they are put into place, always seeking to find room for improvement. Lessons from the consulting world prompt a focus on the stakeholder buy-in and empirical thinking that drives impactful interventions. The impact of political organizing calls on the reform movement to remember that the access-to-justice crisis did not arise solely from inadequate court systems or a constrained supply of legal services; instead, it finds its roots in the power imbalances that lead to legal disputes in the first place. And the successes and failures of various DTC legal tech products are a reminder that reformers cannot pin their hopes for solving the access-to-justice crisis solely on evolving technologies. Instead, careful consideration must be given to the market forces undergirding the industry if one expects legal tech to meaningfully change the game. At base, as reformers seek to usher the legal profession into its next era, the chapters in Part II remind them to remain mindful of the steps that have already been taken on that journey.

I.3 THE COMPARATIVE LENS: WHAT CAN BE LEARNED FROM OTHERS?

Part III turns outward. It applies a comparative lens to ask what the US legal profession of today can learn from other professions and places.

I.3.1 *Lessons from Medicine*

In many ways, medicine and law (the "sister professions," as the Supreme Court has put it) have proceeded along parallel evolutionary tracks.[38] Over the past century, both

[38] Bates v. State Bar of Arizona, 433 U.S. 350, 382 (1977) (dubbing medicine law's "sister profession").

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have witnessed the decline of solo practitioners and attendant growth of large firms.[39] Both have increasingly seen providers shy away from generalist practices and drift to more specialized fields.[40] Both are in something of an access crisis, as the demand for at least certain kinds of medical and legal services outstrips supply.[41] And finally, both have grappled with deeply rooted historical prejudices – meaning that, at least in the highest echelons, both law and medicine remain stubbornly male and white.[42]

But, over the past forty years, law and medicine have diverged in at least two critical ways, and both are instructive for any serious effort to rethink the legal services marketplace. First, in recent years, most states have retained restrictions on nonlawyer ownership and investment, whereas medicine has accepted funding from outsiders, including from private equity.[43] In fact, in the medical arena, over the past ten years, private equity firms have invested nearly $1 trillion buying up everything from neighborhood primary care offices to fertility clinics, cardiology practices, nursing homes, hospitals, and even hospices.[44]

In medicine, the receipts on this private equity investment have started to come in – and they are deeply discouraging. A battery of recent studies indicate that private equity investment in health care is associated with both a drop in quality and a rise in cost.[45] As Dr. Ashish Jha, the dean of the Brown University School

[39] *See, for example*, Yashaswini Singh & Christopher Whaley, *Private Equity Is Buying up Health Care, but the Real Problem Is Why Doctors Are Selling*, Hill (Dec. 21, 2023) (reporting that "nearly 75 percent of physicians now work for a hospital or corporate owner"); Benjamin H. Barton, *Middle Class Lawyers Are a Dying Breed*, Bus. Insider (June 23, 2015) (reciting statistics showing the decline of solo practitioners in law, and the growth of law firms).

[40] Michael Ariens, *Top Ten Changes in the Legal Profession Since 1979, Part II*, Marquette U. L. School Faculty Blog (Feb. 19, 2012), https://law.marquette.edu/facultyblog/2010/01/top-ten-changes-in-the-legal-profession-since-1979-part-ii/ (last accessed Feb. 24, 2025) (noting the rise of legal specialization); James E. Dalen et al., *Where Have the Generalists Gone? They Became Specialists, Then Subspecialists*, 130 Am. J. Med. 766 (2017) (same, but for medicine).

[41] The discussion above outlines the access problem in law. For medicine, see Press Release, Am. Med. Ass'n, *AMA President Sounds Alarm on National Physician Shortage*, AMA (Oct. 24, 2023), https://www.ama-assn.org/press-center/press-releases/ama-president-sounds-alarm-national-physician-shortage (last accessed Feb. 24, 2025).

[42] Brian Dolan, The Medical Profession through History 39–42 (2021) (describing the roots of the lack of diversity in the medical profession); Allison Laffey & Allison Ng, *Diversity and Inclusion in the Law: Challenges and Initiatives*, Am. Bar Ass'n (May 2, 2018) (describing issues of diversity in the law).

[43] *See, for example*, Richard M. Scheffler et al., Monetizing Medicine: Private Equity and Competition in Physician Practice Markets (2023); Erin C. Fuse Brown & Mark A. Hall, *Private Equity and the Corporatization of Health Care*, 76 Stan. L. Rev. 527 (2024); Edward P. Hoffer, *Private Equity and Medicine: A Marriage Made in Hell*, 137 Am. J. Med. 5 (Jan. 2024).

[44] Singh & Whaley, *supra* note 39.

[45] For costs, see Scheffler et al., *supra* note 43, at 23–31 (finding that private equity acquisition of medical practices tends to be associated with significant price hikes and that increased prices "will eventually be paid by consumers in the form of higher health insurance premiums"); Singh & Whaley, *supra* note 39 ("[T]here is clear evidence that private equity ownership increases prices."). For quality, see Atul Gupta et al., *Owner Incentives and Performance in*

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of Public Health, has put it, "there is a quality problem when private equity takes over."[46]

In "How Power Undermined the Medical Profession," Professor Allison K. Hoffman, an expert on health care law and policy at the University of Pennsylvania Carey Law School, catalogs this research regarding cost and quality, explores how corporate investment came to take over medicine, and plumbs both for relevant lessons for law reformers. Over the past century, Hoffman explains, the medical profession gained significant power and influence by setting stringent licensure laws, controlling the physician pipeline, and (for a time) restricting corporate practice. Yet, she says, those measures ultimately backfired – and unwittingly paved the way for corporate interests to take over, free from regulatory strictures or oversight. Sounding the alarm concerning the peril of private equity, Hoffman asks: As the legal profession considers whether to follow the medical profession in opening its doors to nonlawyer funding and ownership, can the pitfalls experienced by the medical profession be avoided?

The second way law and medicine have diverged concerns the use and acceptance of adjunct providers. Medicine has been welcoming of such providers to the point that, today, over half of primary care visits are performed by those without an M.D.[47] Physicians, it seems, at least grudgingly recognize that X-ray technicians, physician assistants, phlebotomists, and other professionals positively contribute to the overall patient experience.[48] Indeed, to give just one example, in most states, nurse practitioners have full practice authority – meaning that they can independently evaluate patients, diagnose conditions, order tests, furnish treatment, and prescribe medication, no physician supervision required.[49]

Not so in law. In most states, regulations *still* prevent nonlawyers from independently providing virtually *any* legal services. "The legal equivalents of physician assistants or nurse practitioners," as one expert recently put it, "do not exist."[50]

Healthcare: Private Equity Investment in Nursing Homes, 37 Rev. Fin. Stud. 1029 (2024) (reporting that patients at private-equity-owned nursing homes suffered an 11 percent increase in mortality, as compared to controls); Sneha Kannan et al., *Changes in Hospital Adverse Events and Patient Outcomes Associated with Private Equity Acquisition*, 330 JAMA 2366, 2366 (2023) (reporting that "private equity acquisition was associated with a 25.4 percent increase in hospital-acquired conditions," including falls and infections).

[46] Reed Abelson & Margot Sanger-Katz, *Serious Medical Errors Rose After Private Equity Firms Bought Hospitals*, N.Y. Times (Dec. 26, 2023).

[47] Anuradha Jetty et al., *How Primary Care Utilization Patterns Have Changed over the Decade*, 21 Annals Fam. Med. 5127 (2023).

[48] *See* Ben Barton, *A Comparison between the American Markets for Medical and Legal Services*, 67 Hastings L.J. 1331, 1358 (2016) (explaining that, unlike the ABA, which has kept nonlawyers out, the American Medical Association "has had to accept (often at the prompting of antitrust regulators or lawsuits) the presence of competitors, from chiropractors, osteopaths, or nurse practitioners, to Reiki healers and the many other types of individuals who sell what might broadly be called medical services").

[49] *See* Engstrom & Stone, *supra* note 1, at n.11 (collecting sources).

[50] Joan W. Howarth, Shaping the Bar: The Future of Attorney Licensing 12 (2023).

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Rather, paralegals and other trained nonlawyer legal professionals cannot furnish legal advice and must, at all times, be directly supervised by an attorney. They cannot independently contribute their skills to meet the significant demand for legal help.[51]

In "Lessons from Medicine's Experiment with Nurse Practitioners and Physician Assistants," Professor Phillip G. Peters of the University of Missouri School of Law – a leading medical-legal scholar – traces this disjunction. He explains how medicine overcame initial resistance to accept these non-M.D. providers and catalogs recent evidence showing that nurse practitioners and physician assistants deliver cost-effective, high-quality care, often in rural communities. In his words, members of those professions provide care "at lower cost than physicians and in under-served areas where it is difficult to recruit physicians." In so doing, Peters offers a lucid, one-stop shop for those seeking to understand the spread of adjunct providers in medicine and what that evolution means for law-side reforms.

I.3.2 *Lessons from Other Legal Systems*

Just as there are lessons to be learned from other industries, there are also lessons to be learned from other places regarding both loosening restrictions on the legal services market and responding to the rise of new technology.

Restrictions on who can provide legal services vary greatly across the world. Some countries are similar to the United States – a full-fledged lawyer monopoly.[52] Others sit at the far end of the spectrum. Think Switzerland, where nonlawyers can provide almost all legal services, except for a small subset reserved solely for professional "Advokats."[53] Most other places, however, fall somewhere in the middle of the spectrum. Japan, for instance, imposes strong restrictions to prevent nonlawyers from, among other things, appearing in court but has a relatively robust subset of "legal advisors" that assist with more administrative tasks.[54] Likewise, in Canada, nonlawyers are permitted to provide legal assistance in a range of settings.[55] As one scholar explains: "Across Canada, the statutes that govern the legal profession contain both *exceptions* to the practice of law – activities that would otherwise

[51] *See, for example*, Am. Bar Ass'n, *Model Rules of Prof'l Conduct* R. 5.3 (2019) (requiring paralegals be supervised by an attorney at all times); *Information for Lawyers: How Paralegals Can Improve Your Practice*, Am. Bar Ass'n, https://www.americanbar.org/groups/paralegals/profession-information/information_for_lawyers_how_paralegals_can_improve_your_practice/ (last accessed Apr. 25, 2024) (paralegals "may not give legal advice to a client").

[52] Ivan Mitchell Merrow & Madeleine Dusseault, *Non-Lawyer Legal Services: An International Round-Up*, Justice Lab (June 16, 2017).

[53] *Practical Guide for EU, EEA and Swiss Lawyers on Service and Establishment*, Council of Bars and L. Socs. of Europe, at ¶ 1.7 (2018).

[54] *Id.*

[55] *See* Lisa Trabucco, *Lawyers' Monopoly? Think Again: The Reality of Non-Lawyer Legal Service Provision in Canada*, 96 Can. B. Rev. 460 (2018).

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constitute the practice of law but do not in certain circumstances – and *exemptions* that allow others to engage in practice-of-law activities. In addition, numerous other statutes in all jurisdictions authorize nonlawyer representation before courts and administrative tribunals."[56]

In "The Statutory Influence of Tribal Lay Advocates," Professor Lauren van Schilfgaarde, an expert in Tribal sovereignty and federal Indian law at University of California Los Angeles School of Law and a member of the Cochiti Pueblo Tribe, provides a first-of-its-kind analysis of the codification of Tribal lay advocates – nonlawyer legal services providers operating in Native American Tribal Courts. First, she highlights the exceptional nature of the nation's vast array of Tribal law and Tribal Courts, pointing out that Tribal law is not necessarily lawyer-centric: Nonlawyer experts and community members play key roles. Nor does Tribal law always rely on an adversarial, winner-take-all framework. Instead, it incorporates practices like peacemaking and restorative justice. After setting the table, van Schilfgaarde canvasses Tribal codes to evaluate how they embrace, codify, and regulate Tribal lay advocacy. This analysis reveals that Tribal lay advocates are not conceived of as a "gap-filler" for lawyers but are instead recognized as qualified, competent legal experts who are held to high ethical standards and are well-versed in the Tribe's community, law, and culture. The codification of the Tribal lay advocate, she says, may hold valuable insight for the access-to-justice movement outside of Indian Country.

Continuing the comparative theme, two further chapters consider how other jurisdictions are responding to the rapid rise of "legal tech," particularly new AI-based legal services delivery models.

Natalie Byrom, a UK-based expert in justice system reforms, takes us across the pond in "Necessary but Insufficient? Reforms to Legal Services Regulation, Technology, and the Role of the Courts in Increasing Access to Justice in England and Wales." Byrom first zeroes in on the UK's Legal Services Act of 2007. Enacted with great fanfare, the Act initially promised to leverage technology to increase competition and improve access to justice. But, as Byrom explains, the Legal Services Act failed to live up to these lofty expectations, leading the government to try, in fits and starts, to develop technological fixes that would allow individuals to more easily navigate the court system and resolve their disputes. But even those fixes mostly fizzled: By 2023, the program had spent most of its budget with only over half of the planned projects completed. Unbowed, the UK government recently announced a new vision for a digital justice system founded on public–private partnerships that integrate private-sector digital services into governmental court systems. Despite its laudable aim, that proposal, Byrom suggests, *also* raises a host of questions, including whether private entities are properly incentivized to participate in the anticipated partnerships, and whether the proposal will, in fact, deliver services in the areas of law with the most significant unmet need. All

[56] *Id.* at 469.

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told, these misses, feints, and false starts, Byrom suggests, may hold important lessons for American reformers, helping them build on the UK's successes while avoiding its pitfalls.

Part III's final contribution comes from Professor Giesela Rühl of Humboldt University of Berlin. In "Legal Tech Companies and Access to Justice in Germany," Professor Rühl explains that, over the past twenty-five years, German courts have seen significant reductions in the number of small claims actions being filed. This reduction may stem from claimants forgoing legal action due to prohibitive costs or daunting procedural complexity. One solution to this issue, she suggests, could come from the growing number of legal tech companies in Germany that have leveraged digital technology to standardize and enforce small-scale consumer claims. These companies initially operated in a largely deregulated zone, with German courts broadly interpreting debt collection licensure statutes to accommodate the companies' business models. Eventually, the Legal Tech Act of 2021 was passed to introduce a new regulatory scheme for both lawyers and legal tech companies. But the Act, Ruhl says, failed to level the playing field between lawyers, who remain relatively tightly regulated, and legal tech companies, which continue to operate free from onerous requirements. The German experience could provide critical insights to stakeholders, considering how to strike the appropriate regulatory balance between lawyers and legal tech companies in the United States.

Read together, the comparative lens applied across the chapters in Part III reveals not only the shared challenges of adapting to a rapidly changing landscape but also the unique opportunities for learning and growth. The examples of nurse practitioners, physician assistants, and Tribal advocates showcase the promise of expanding the pool of individuals permitted to provide legal services; these examples also provide ideas for ensuring those individuals will provide high-quality services. Meanwhile, the story of private equity in medicine provides something of a cautionary tale. Then, accounts of reform efforts in the UK and Germany illustrate a growing consensus that legal tech could improve the delivery of, and access to, legal services – but only if regulation is properly calibrated. While the UK and German experiences of reform each suggest concrete dos and don'ts for American reformers, together, they encourage the legal profession to remember that getting to a regulatory sweet spot may take time and a willingness to course-correct.

I.4 NEW FRONTIERS: CHARTING THE FUTURE OF LEGAL SERVICES

The fourth and final part extends its focus beyond existing reforms, asking what the *future* of legal services will look like. The contours of that future are far from clear, and sketching them out requires one to grapple with a bevy of interrelated questions. Among them: Will reforms, when they come, be the product of careful policymaking? Or will they be the impulsive products of partisan politics – or will they

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perhaps come slashingly, from federal courts? Should reforms be transsubstantive (affecting all areas of law equally)? Or, should we pick and choose between substantive specialties – and if so, how? Who ought to drive and oversee reform efforts? And: Have the most effective reforms already been proposed, or is further imagination required?[57]

The Part's first two chapters address the question of *who* will drive reform. Will reforms emanate from within the existing regulatory structure, pushed forward by state bars and state supreme courts? Or will litigation drive change, with a judge issuing a single decision that radically reshapes the legal market? Will change come from the states? Or will the federal government lead the charge?

The first to tackle the *who* question is Professor Genevieve Lakier, a noted First Amendment scholar from the University of Chicago Law School, who outlines the implications of litigation-driven reforms. In "Professional Speech, the *Lochnerized* First Amendment, and the Unauthorized Practice of Law," Lakier explores *Upsolve, Inc. v. James*, a case currently winding its way through federal court. The case arose when Upsolve, a nonprofit that offers tech-based services to consumers who are facing financial trouble, sought to train nonlawyers to provide free legal advice to those hit with debt collection actions.[58] Recognizing that lay advice could violate New York's stringent UPL restrictions, Upsolve brought suit against the New York Attorney General seeking the court's assurance that it could follow through on its plans.[59] A court battle followed. Upsolve won the first round, as a trial court found that the training and advice provided by Upsolve's volunteers constituted protected speech under the First Amendment.[60] Though still on appeal, many have hailed the trial court's decision as a major win for access-to-justice advocates.[61] Yet, the trial court's decision, Lakier concludes, should be viewed cautiously. That's because, says

[57] Certainly, this volume is not the first to grapple with these questions. Part IV's chapters are situated within an already robust, ever-evolving spectrum of proposed reforms. At one end of this continuum, stakeholders have proposed relatively uncontroversial reforms, such as increasing legal aid and expanding pro bono. At the other end lie ambitious, industry-upheaving proposals, including the recognition of a constitutional right to civil council and a massive fortification of the welfare state to help low-income individuals avoid legal problems in the first instance. For the former, see Hon. Robert W. Sweet, *Civil Gideon and Confidence in a Just Society*, 17 Yale L. & Pol'y Rev. 503 (1998). For the latter, see Juliet M. Brodie & Larisa G. Bowman, *Lawyers Aren't Rent*, 75 Stan. L. Rev. Online 132 (2023). Many other potential interventions (and there are many) are scattered along that continuum. *See* Engstrom & Engstrom, *supra* note 18, at 146–47 (cataloging reform ideas).

[58] Without assistance, the majority of alleged debtors never file a responsive pleading and are hit with a default judgment. Engstrom & Engstrom, *supra* note 18, at 149.

[59] For a discussion of the litigation, see Nora Freeman Engstrom, *UPL, Upsolve, and the Community Provision of Legal Advice*, Legal Aggregate (Jan. 27, 2022).

[60] 604 F. Supp. 3d 97, 104 (S.D.N.Y. 2022).

[61] *See, for example*, Thomas A. Berry, *Upsolve Wins the Right to Give Basic Legal Advice*, Cato Inst. (June 1, 2022), https://www.cato.org/blog/upsolve-wins-right-give-basic-legal-advice (last accessed Feb. 24, 2025); Jack Karp, *The Cases That Most Affected Access to Justice in 2022*, Law360 (Dec. 16, 2022).

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Lakier, *Upsolve's* seemingly narrow holding plants seeds for broader decisions holding that *any* limitations on nonlawyer practice violate free speech rights – part of a sweeping "Lochnerization" of the First Amendment that could broadly deregulate the legal profession in ways that cause more harm than good. The genie, she argues, could be hard to get back into the bottle.

In "Our Bar Federalism" Professor David Freeman Engstrom and Professor Daniel B. Rodriguez of Northwestern Law posit that effective reform may necessarily require a shakeup of the current, state-centric regulatory regime – one that calls on the federal government to play a larger role. They argue that existing "Bar Federalism," with its state-by-state patchwork of regulations, is misaligned with the increasingly national and global nature of the legal profession and also discourages innovations that could help address the burgeoning access-to-justice crisis. In place of our current fifty-state regulatory regime, Engstrom and Rodriguez propose a "hybrid" federal-state regulatory model. In their envisioned system, state bars would maintain regulatory control over conventional, one-to-one legal services provided by lawyers and paraprofessionals. But a new federal regulatory authority would seize regulatory control of organizations and entities that furnish one-to-many services. This approach, the authors contend, would retain the benefits of state experimentation and local knowledge, while enabling a more unified and efficient regulatory structure for modern legal services delivery.

The part closes with a pair of chapters that explore *where* reforms should be targeted. Some reformers have set their sights on upending aspects of the legal profession that are common across all of its substantive areas: If nonlawyer investment were permitted, for instance, lawyers would be able to solicit outside investors regardless of whether they practiced housing law, art law, sports law, antitrust law, or any other substantive legal area. Other reform proposals are more surgical, targeting one discrete, substantive area of the law: What works in securities law may not be effective for a personal injury attorney. The Part's final two chapters take this second tack, exploring potential reforms targeted at discrete, substantive legal areas.

First, nationally acclaimed family law expert Rebecca J. Aviel, of the University of Denver (Sturm), zooms in on the family justice system in "Access to Advice as a Linchpin of Family Justice." There, she conducts a careful analysis of the access-to-justice challenges afflicting family law, where studies show that in roughly three-quarters of cases, at least one party is unrepresented.[62] She points out that, compared to other litigation areas, family law is distinctive in many respects. These include, for example: "divorcing spouses cannot resolve their affairs without beginning and ending in court"; many divorcing spouses have aligned, rather than adverse, interests; and "many families are better served by a system that does not run on the kind

[62] Landscape of Domestic Relations, *supra* note 19, at ii; Natalie Anne Knowlton et al., IAALS, Cases without Counsel: Research on Experiences of Self-representation in U.S. Family Court 1 (2016).

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of individualized partisan advocacy that is taken to be the lawyer's stock-in-trade." Those distinctive attributes, Aviel posits, may require tailored interventions, including permitting joint representations, promoting early neutral evaluations, and permitting nonlawyer family law professionals to offer their services to divorcing spouses. Aviel's methodological exploration of the family law market for legal services – one that begins with an exploration of the substantive area of law at issue, followed by an identification of entry points for possible narrow-gauge reforms – presents a compelling model for stakeholders eager to jettison a transsubstantive framework and think through tailored reforms in other specific areas of the law.

Finally, Professor Samuel Issacharoff of New York University School of Law and the Honorable Beverly B. Martin (ret.), of the US Court of Appeals for the Eleventh Circuit, who also serves as the Director of the Center on Civil Justice at NYU Law, envision reforms that would address the issue of small value debt collection lawsuits flooding state courts in the United States. Most of these cases pit sophisticated, institutional debt collection agencies against unrepresented defendants that lack the knowledge and resources to vigorously litigate the matter, in what the authors call "asymmetric aggregation." They propose several reforms to rein in these problematic lawsuits, including expanding the pool of individuals able to provide legal advice to defendants in these actions, utilizing online dispute resolution platforms, and, most prominently, direct regulatory oversight by state or federal agencies, perhaps led by the Consumer Financial Protection Bureau. While each of these approaches has certain limitations, they say, a robust and multifaceted regulatory response is required to better respond to the lawsuits currently engulfing – and ravaging – court systems and individuals alike.

Part IV's contributions yield at least two key insights. First, they illustrate the sheer breadth and depth of the potential avenues for reforms. Whether reformers focus their efforts on shaking up existing regulatory structures, or on targeting discrete substantive legal areas, or on broader-based reforms, there exists a rich landscape for critical exploration and action. Put simply, the universe of potential visions for the legal services market is vast and diverse.

Certainly, the sheer number of potential interventions may at first glance seem overwhelming, but that's where the second insight comes in: The chapters in this part showcase the thoughtful analysis and ordered thinking required to effectively navigate the myriad potential routes for change. The considered diagnoses, thoughtful problem-solving, and innovative solutions presented in this part set a precedent for engaging in the dynamic dialogue currently shaping the path that will one day lead to the future of legal services delivery.

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Our friend and colleague, Professor Deborah L. Rhode, once observed that the American legal profession's "success, and the structural forces that ensure it, have shielded the profession from the accountability and innovation that would best serve

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societal interests."[63] Today, in the face of a mounting access-to-justice crisis and booming legal tech industry, those shields have all but been shattered. A revolution in legal services regulation is upon us. The conversations that will shape that revolution are happening now in courthouses, state bar associations, law schools, legislatures, and Silicon Valley start-ups. This volume seeks to enrich and inform those conversations. And it ultimately seeks to guide the market for legal services into a new, more accessible era.

[63] Deborah L. Rhode, The Trouble with Lawyers 88 (2015).

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